

1 MICHAEL A. JACOBS (CA SBN 111664)
MJacobs@mofo.com
2 ARTURO J. GONZÁLEZ (CA SBN 121490)
AGonzalez@mofo.com
3 ERIC A. TATE (CA SBN 178719)
ETate@mofo.com
4 RUDY Y. KIM (CA SBN 199426)
RKim@mofo.com
5 MORRISON & FOERSTER LLP
425 Market Street
6 San Francisco, California 94105-2482
Telephone: 415.268.7000
7 Facsimile: 415.268.7522

8 KAREN L. DUNN (*Pro Hac Vice*)
kdunn@bsflp.com
9 HAMISH P.M. HUME (*Pro Hac Vice*)
hhume@bsflp.com
10 BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, N.W.
11 Washington DC 20005
Telephone: 202.237.2727
12 Facsimile: 202.237.6131

13 Attorneys for Defendants
UBER TECHNOLOGIES, INC.
14 and OTTOMOTTO LLC

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 WAYMO LLC,
19 Plaintiff,
20 v.
21 UBER TECHNOLOGIES, INC.,
22 OTTOMOTTO LLC; OTTO TRUCKING LLC,
23 Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF ARTURO J.
GONZÁLEZ IN SUPPORT OF
DEFENDANTS UBER
TECHNOLOGIES, INC. AND
OTTOMOTTO LLC'S OPPOSITION
TO WAYMO'S MOTION FOR
ORDER TO SHOW CAUSE WHY
DEFENDANTS SHOULD NOT BE
HELD IN CONTEMPT**

Date: July 26, 2017
Time: 8:00 a.m.
Ctrm: 8, 19th Floor
Judge: Hon. William Alsup

Trial Date: October 10, 2017

1 I, Arturo J. González, declare as follows:

2 1. I am a partner with the law firm of Morrison & Foerster LLP, counsel of record for
3 Defendants Uber Technologies, Inc. and Ottomotto LLC (collectively “Uber”) in this action. I
4 am a Fellow with the American College of Trial Lawyers and the International Academy of Trial
5 Lawyers, and an Associate with the American Board of Trial Advocates. I am a member in good
6 standing of the Bar of the State of California. I make this declaration in support of Uber’s
7 Opposition to Waymo’s Motion for Order to Show Cause Why Defendants Should Not Be Held
8 in Contempt. I make this declaration based on personal knowledge. If called as a witness, I could
9 and would testify competently to the matters set forth herein.

10 2. In response to the allegations that Uber encouraged Anthony Levandowski to bring
11 Google information to Uber, I have advised Waymo’s counsel on at least three occasions that I
12 would like to discuss with him information pertaining to the Stroz report, on the condition that
13 Waymo agree it is not a subject-matter waiver to do so. Waymo’s counsel has declined each time,
14 and has responded that the privilege cannot be used as a sword and a shield.

15 3. Before our first meeting with the Special Master, I told Waymo’s counsel that I
16 wanted both sides to have the ability to engage in ex parte communications with the Special
17 Master because I wanted his guidance on challenging privilege issues. Waymo declined. I then
18 told them that I wanted to disclose information to them that I thought they should be aware of
19 regarding the due diligence process, and Waymo’s lead trial counsel Charles Verhoeven refused,
20 saying that we could not use the privilege as a sword and a shield.

21 4. This conversation basically repeated itself the first time we met with Magistrate
22 Judge Corley. While conferring in her jury room, I again offered to share information regarding
23 the due diligence process (this time with either the Special Master or Judge Corley) but Waymo
24 again refused to allow any ex parte communications and again refused to agree that voluntary
25 statements about the due diligence process would not be deemed a waiver.

26 5. Finally, at a hearing before this Court on May 3, 2017, this Court asked a question
27 about the content of the due diligence report and I noted that I would answer the question as long
28 as there was a stipulation that by answering, we were not waiving the privilege. Again, Waymo

1 would not agree. (A true and correct copy of the transcript of this exchange is attached hereto as
2 Exhibit A.)

3 I declare under the penalty of perjury that the foregoing is true and correct. Executed this
4 5th day of July, 2017 at San Francisco, California.

5
6 /s/ Arturo J. González
ARTURO J. GONZÁLEZ